

(2022) 04 J&K CK 0063

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 493 Of 2021 (O&M)

Sajad Ahmed

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 27-04-2022

Acts Referred:

Citation : (2022) 04 J&K CK 0063

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Siddhant Gupta, Anuj Dewan Raina

Final Decision : Dismissed

Judgement

Rajnesh Oswal, J

1. The present writ petition has been filed by the petitioner for grant of the following reliefs:

(a) Certiorari, seeking to quash impugned advertisement notice dated 14.08.2017 qua serial No. 41 issued by respondent No. 1, wherein and where under 'Bufliaz' area in District Poonch have been proposed for LPG distribution as one of the location in the concerned Area in complete contradistinction to the existing Unified Guidelines for selection of LPG Distributorship;

(b) Certiorari, seeking to quash impugned 'List of Applicants selected in Draw' issued by the respondent No. 1, wherein and where under respondent No. 4 has been shown as the successful candidate at Serial No. 8 qua 'Bufliaz area in District Poonch of draw dated 12.01.2021 in complete contradistinction to the existing Unified Guidelines for selection of LPG Distributorship;

(c) Mandamus, commanding and directing the respondents to re-advertise/ substitute the name of 'Chandak' area instead of 'Bufliaz' area as one of the location for appointment of LPG distributor in District Poonch as the same meets the eligibility and criteria required for setting up of LPG Distributorship in

accordance with the existing Unified Guidelines for selection of LPG Distributorship.

2. The advertisement notice dated 14.08.2017 and the subsequent list of the applicants selected in a draw dated 12.01.2021 for location 'Bufliaz' have been impugned by the petitioner primarily on the ground that the respondents have failed to take into consideration their own guidelines which govern the distributorship of Liquefied Petroleum Gas (LPG) inasmuch as by assigning 'Bufliaz' as one of the locations knowing the fact that the LPG distributorship in Surankote being the Rurban Vitrek distributorship is already catering to the needs of the residents of the

'Bufliaz' area and also without taking into consideration that the actual distance between 'Bufliaz' and Surankote is 11 kms. It is further stated that the respondents have failed to consider their guidelines which clearly enshrine that location of the proposed LPG distributorship has to be based on LPG coverage and the number of households residing therein. But in the present case, the residents of 'Bufliaz' area have been accorded surplus facility for availing LPG, as a consequence thereof, the residents of Chandak, which is a hilly terrain and requires immediate attention of various essential and daily need requirements, such as, LPG, have been illegally deprived of their bona fide benefits without any fault on their part.

3. The petitioner has placed on record the advertisement notice, copy of draw of lots and guidelines for selection of LPG distributorship and also the memorandum of agreement between Indian Oil Corporation and M/s Surankote Indane for location at Surankote. The petitioner has also filed a representation before the respondents.

4. The response stands filed by the respondents 2 and 3, in which it has been stated that the competent authority before issuing advertisement notice for location of 'Bufliaz' has taken into consideration that one regular distributor at Surankote stand established under marketing plan 2013-2014 at the alleged distance of 12 kms and after consideration of the same, feasibility of the location 'Bufliaz' was done by the Oil Marketing Company (OMC) on 19.01.2017 under marketing plan 2017-18. In the instant case, the location has been identified under the category of the DKV (Durgam Shetriya Vitrak). Moreover, as per the distributor agreement clause 1b (ii), the Corporation has reserved the right without any reference to the consent of the distributor to appoint one or more additional distributors in the same territory. It is further stated that the notification dated 14.08.2017 was issued and applications for LPG distributorships for various locations were invited wherein at serial No. 41 location 'Bufliaz', District Poonch was advertized by the answering respondents. It is also stated in the feasibility survey, the location 'Bufliaz' was found suitable and covering access to the majority of the population. After the selection process was conducted, the letter of intent was issued in favour of respondent No. 4. It is also stated in the response that so far as village Chandak is concerned, the

respondents will also consider the same in case it fulfills the feasibility norms as per the guidelines in vogue.

5. Mr. Siddhant Gupta, learned counsel for the petitioner has vehemently argued that the respondents could not have issued the notification for 'Bufliaz' as the LPG distributorship was already existing in Surankote and issuance of advertisement is contrary to the guidelines.

6. Mr. Anuj Dewan Raina, learned counsel for respondents 2 and 3 has vehemently argued that the present petition is not maintainable and further that the respondents can appoint another distributor for the same location also and there is no bar in appointing the other distributor within the 15 kms of the other LPG distributorship. He, during the course of hearing, produced the agreement dated 27.12.2017 executed between Indian Oil Corporation and M/S Surankote Indane.

7. Heard and perused the record.

8. The petitioner has not been able to demonstrate any rule or guideline that prescribes that another LPG distributorship cannot be opened within the 15 kms of the area, where the LPG distributorship already exists. Further the petitioner has placed on record only two pages of the agreement entered into between the Indian Oil Corporation and Sohail Sarwar for LPG distributorship at Surankote. The perusal of clause 1b(ii) of the agreement reveals that respondent Nos. 2 and 3 can appoint the second distributor also and there is no bar in appointing another LPG distributor for the same location.

9. This Court is of the considered opinion that the present petition is misconceived and deserves to be dismissed. The petitioner seems to have a hidden agenda behind filing the writ petition. Had the petitioner been interested in the welfare of the residents of village Chandak, he could have filed the writ petition for establishment of LPG distributorship at village Chandak but he has not done so and rather the respondent Nos. 2 and 3 have very fairly stated that in case the village Chandak is found to be feasible then they will consider the establishment of LPG distributorship at village Chandak also. More so, the petitioner has not placed on record the relevant portion of agreement dated 27.12.2017, which provides that the additional distributor can be appointed for the location where LPG distributorship already exists and this amounts to suppression of material facts from the Court. This is a fit case where costs should be imposed, but taking into consideration the fact that the petitioner is a resident of a remote village, so taking a lenient view, this petition is dismissed without costs being merited.